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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 JOHN GARRETT SMITH,

9 Petitioner,

10 v.

11 RONALD HAYNES,

12 Respondent.

CASE NO. C18-5061-BHS

ORDER ON REVIEW DECLINING
TO RECUSE

13 On May 17, 2018, Judge Settle issued an Order declining to recuse himself “on notice
14 that Petitioner John Garrett Smith (“Smith”) has filed a case against the undersigned, Magistrate
15 Judge David W. Christel, and Magistrate Judge J. Richard Creatura in Grays Harbor County
16 Superior Court for the State of Washington.” Dkt. #48 at 1. In accordance with this Court’s
17 Local Rules, this Order was referred to the Chief Judge for review. *See* LCR 3(e).

18 A judge of the United States shall disqualify himself in any proceeding in which his
19 impartiality “might reasonably be questioned.” 28 U.S.C. § 455(a). Federal judges also shall
20 disqualify themselves in circumstances where they have a personal bias or prejudice concerning
21 a party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28
22 U.S.C. § 455(b)(1). Normally, being named as a defendant would also require recusal: 28
23 U.S.C. § 455(b)(5)(i) provides that a judge shall disqualify himself when he is a party to the
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1 proceeding. However, such disqualification is not required where the litigant baselessly sues or
2 threatens to sue the judge. *See In re Hipp, Inc.*, 5 F.3d 109 (5th Cir. 1993); *U.S. v. Grismore*,
3 564 F.2d 929 (10th Cir. 1977); *Bush v. Cheatwood*, 2005 U.S. Dist. LEXIS 38041, 2005 WL
4 3542484 (N.D.Ga. 2005). Pursuant to 28 U.S.C. § 144, “whenever a party to any proceeding in
5 a district court makes and files a timely and sufficient affidavit that the judge before whom the
6 matter is pending has a personal bias or prejudice either against him or in favor of any adverse
7 party, such judge shall proceed no further therein, but another judge shall be assigned to hear
8 such proceeding.”

9 Although there is no motion to recuse in this case, Judge Settle has proactively declined
10 to recuse based on a potential state court suit brought against him by Petitioner Smith. *See* Dkt.
11 #48-1. The Court has examined that suit and finds that it is so lacking in specificity as to claims
12 against Judge Settle personally that it cannot cause his impartiality to be reasonably questioned
13 or otherwise form a basis for recusal. Accordingly, the Court hereby finds and ORDERS that
14 Judge Settle’s refusal to recuse himself from this matter is AFFIRMED. The Clerk is directed to
15 refer this case and all pending Motions back to Judge Settle.

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17 DATED this 29 day of May, 2018.

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20 RICARDO S. MARTINEZ
21 CHIEF UNITED STATES DISTRICT JUDGE
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